IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3469 OF 2005

Dr. Mukund Daji Shastri ..Petitioner.

Vs.

Mrs. Leena Ramesh Bhalerao ..Respondent.

...

Mr. N.P. Deshpande for the Petitioner.

CORAM : DR.D.Y.CHANDRACHUD, J.

13th April, 2006.

P.C.:

A suit for the recovery of an amount of Rs.71,400 filed by the Petitioner was dismissed on 10th February, 2003. An appeal was filed. There was a delay of nearly 10 months in filing the appeal and in support of the application for condonation of delay that was filed on 6th April, 2004, it was stated that the Petitioner was required to go abroad to attend conferences and seminars and that his wife had been ill.

Applications for condonation of delay are no doubt considered liberally. However, the reason which has been advanced has to be genuine and true. In the present case, in the course of his cross examination, the Petitioner stated that he came to know of the dismissal of the suit on 18th or19th June, 2003 and

that he was in Pune from that date right until 23rd September, 2003. He also admitted that since 23rd October, 2003 he was at Pune. In the course of his cross examination, the Petitioner similarly admitted that his wife had been discharged from hospital in November 2003 on the third day of her admission. In these circumstances, it cannot be said that the Petitioner had been disabled either because of his absence from India or his wife's ailment from lodging the appeal. The admitted dates show that the Petitioner was very much present in India between June and September 2003 and thereafter since October, 2003. In these circumstances, the view which has been taken by the Learned Additional District Judge, Pune on appreciation of the evidence in support of the application for condonation of delay cannot be stated to suffer from any jurisdictional error or perversity. No case for interference under the supervisory jurisdiction under Article 227 is made out. The petition is dismissed.